

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PATRICK ARNOLD WHITE SR.,

Plaintiff,

Case No. C12-1782-MJP-BAT

V.

REPORT & RECOMMENDATION

STATE OF TEXAS,

Defendant.

13 Texas state prisoner Patrick Arnold White Sr. submitted a proposed pro se complaint
14 under 42 U.S.C. § 1983 and a deficient in forma pauperis (“IFP”) application. Dkt. 1. He
15 alleges the conditions of his confinement violate his civil rights. Because Mr. White has neither
16 paid the filing fee nor corrected his deficient IFP application, and because the proposed
17 complaint only alleges acts committed in Texas, the Court recommends his proposed complaint
18 be **DISMISSED** without prejudice.

On October 11, 2012, Mr. White submitted a complaint and deficient IFP application.

20 Dkt. 1. The Court notified Mr. White that he needed to correct several errors in his application
21 or pay the filing fee to proceed with his claims. Dkt. 3. Mr. White then submitted another
22 deficient IFP application that failed to provide his prison trust account records, as requested.
23 Dkt. 4. The Court again advised Mr. White that if he did not pay the filing fee or submit his

1 prison trust account records by November 26, 2012, his case would be subject to dismissal. Dkt.
2 5. Though he has since filed two letters with the Court, he has not cured his deficient IFP
3 application by providing his prison trust account records as required. *See* 28 U.S.C. §
4 1915(g)(a)(2).

5 Mr. White also submitted his complaint in the wrong judicial district. Under 28 U.S.C. §
6 1391, a civil case may be brought either in the judicial district where the defendant resides or
7 where a substantial amount of the events giving rise to the claim occurred. Mr. White's
8 complaint indicates he is confined in Texas and that the events giving rise to his claim occurred
9 in relation to his incarceration there. Dkt. 1. He does not claim that anything relating to his
10 complaint took place in Washington State, and thus his case cannot be brought in this judicial
11 district. Though Mr. White's case could be transferred to the appropriate Texas district court
12 under 28 U.S.C. § 1404, the Court does not recommend doing so because Mr. White's claims
13 were previously dismissed in that district as frivolous. Dkt. 1.

14 Because Mr. White failed to cure his deficient IFP application and because he submitted
15 his complaint in the wrong judicial district, the Court recommends **DISMISSING** his complaint
16 without prejudice.

17 Any objections to this Recommendation must be filed no later than **December 26, 2012**.
18 The matter will be ready for the Court's consideration on **December 28, 2012**. Objections shall
19 not exceed five (5) pages. The failure to timely object may affect the right to appeal.

20 The Clerk of the Court is directed to provide a copy of this Report and Recommendation

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1 to plaintiff and to the Honorable Marsha J. Pechman.

2 DATED this 5th day of December, 2012.

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BRIAN A. TSUCHIDA
United States Magistrate Judge

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